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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1993 OF 1996

Pune Municipal Transport).. Petitioner

Versus

Kaluram Jaysingh Shivarkar).. Respondent

Mr.R.M.Pethe i/b.Mr.R.G.Ketkar for the Petitioner.

None present for the Respondent though served.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 19TH AUGUST 2006

P.C.:

. The present Petition raises the question as to whether a workman has a right to receive subsistence allowance when an order of "No duty" is issued to a badli worker.

2. The Respondent workman was working as a badli-hangami-rozandari employee with the Petitioner. He was assigned work as a Conductor as and when work was available. Daily wages were paid to the Respondent i.e. on the dates when he was provided with work. The Petitioner issued an order of "No duty" to the Respondent workman. This order was challenged by the Respondent. An application was filed under Section 13-A of the Industrial Employment (Standing Orders) Act, 1946,

claiming subsistence allowance during the period when he was shown on "No duty". The Industrial Court held that, since there was no rule under which such an order of "No duty" could be issued, the Petitioner was required to pay suspension allowance as provided under Section 10-A of the Industrial Employment (Standing Orders) Act, 1946. The Petition has been filed challenging this order.

3. This issue as to whether subsistence allowance is payable by the employer during the period a badli employee has been issued a "No duty" order has been considered by me in the case of *Transport Manager and another* vs. *Vilas Sanu Deokar and others*, **2002 (94) FLR 772**. I have already held that there cannot be suspension of a workman whose name figures on the register of badli-hangami-rozandari workers and, therefore, payment of subsistence allowance to such a worker is not contemplated.

4. In view of this aforesaid decision, Writ Petition allowed. Rule made absolute. No order as to costs.